

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-211664

DATE: May 19, 1983

MATTER OF: Gichner Mobile Systems

DIGEST:

Protest alleging unduly restrictive requirements in solicitation apparent prior to bid opening must be filed with either contracting agency or GAO prior to bid opening.

Gichner, Mobile Systems, Division of the Union Corporation, protests the award of a contract to Craig Systems Corporation under solicitation No. DAAG08-83-B-0028, issued by the Sacramento Army Depot, Department of the Army (Army). As its basis for protest, Gichner asserts that it was not afforded an equal opportunity to compete because of the short time available to it to prepare a bid. We dismiss the protest.

The requirement for 18 Model D741-B dolly lift sets was synopsized in the October 14, 1982 Commerce Business Daily as a sole-source procurement to Craig Systems. In response to a request from Gichner, the Army changed the procurement to a competitive, formally advertised one, and accordingly issued an invitation for bids on February 23, 1983, which Gichner received on February 28. Bids were due on March 25.

Gichner asked for extensions of the bid due date and delivery schedule requirements of the solicitation. The Army denied both requests. Gichner submitted a telegraphic bid because of the time constraints which the Army rejected because the solicitation prohibited telegraphic bids.

Gichner protested to the Army on March 30, 1983, and to our Office on May 3, 1983.

Our Bid Protest Procedures provide that a protest alleging improprieties in a solicitation apparent prior to bid opening must be filed with either the contracting agency or our Office before that time. 4 C.F.R. § 21.2(b)(1) (1983). It is clear that Gichner was well aware of the allegedly restrictive requirements of the solicitation prior to bid opening. As the protest to the contracting agency

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and then to our Office was filed after the opening date, it is untimely and will not be considered. See Tenavision, Inc., B-210356, January 11, 1983, 83-1 CPD 31.

The protest is dismissed.)

For *J. H. Barclay, Jr.*
Harry R. Van Cleve
Acting General Counsel